STR No.20/05

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. SALES TAX REVISION PETITION NO.20/2005

M/s. Chaturvedi Oil Mills

Versus

A.C.T.O.

DATE OF ORDER :: 06/12/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Nitin Jain, for petitioner-assessee
Mr. Sunder Singh on behalf of Mr. R.B. Mathur, for respondent-department

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Instant revision petition has been filed at the behest of assessee assailing the order of the Tax Board dated 16th September, 2004 whereby the penalty imposed upon the assessee to the tune of Rs.28079/- has been finally upheld.

The Assessing Authority after physical verification of the stock, which was duly signed by the assessee himself, proceeded in holding that stock at site has not been properly disclosed in the books of account maintained by the assessee and taking note of his own written documents considered to be a case of evasion of tax, accordingly, imposed tax along with penalty for a sum of Rs.28079/-. Against imposition of penalty by the Assessing Authority, the assessee preferred appeal, which was allowed by the Deputy Commissioner [Appeals]. Against which, the Revenue filed further appeal

before the Tax Board. After service of notice, no one appeared before the Tax Board on behalf of assessee-petitioner. It appears from the order that counsel appeared for the Revenue placed the entire record where the letter written by the assessee himself about disclosure of stocks which found to be in excess and all other relevant documents were duly signed by him, proceeding on the said premise the learned Tax Board allowed the appeal preferred by the Revenue and set aside the order of the Deputy Commissioner [Appeals].

This Court vide order dated 6th March, 2006 directed the department to produce the record of the Assessing Authority including survey report. Counsel for Revenue has placed the entire record before me and from its perusal, it appears that all such documents, of which reference has been made by the Tax Board under the order impugned, were signed by the assessee himself and it clearly discloses about the stocks available which were in excess to what has been disclosed by him in the books of account.

All such documents were shown to the counsel as well who after going through the same, has not disputed so far as his signature is concerned, but submits that all documents were got signed by the Assessing Authority under pressure as such cannot be considered at its face value. The finding which has been recorded by the Tax Board based on undisputed documents and the present theory propounded by the petitioner is nothing but an after thought.

In my considered opinion, once the document which was signed and no contrary material has come on record and apart from it, the assessee has also never made complaint about such duress, is a question of fact cannot be examined under the revisional jurisdiction of this Court. No legal question arises for consideration.

Consequently, the revision petition fails and is hereby dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.